United States Senate
REPUBLICAN POLICY COMMITTEE
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A 2-Page Primer for the Senate Side

The Line Item Veto Act

The Line Item Veto Act is an eight-year experiment: It gives the President of the United States limited authority to cancel individual spending and tax benefits, but only President Clinton and his immediate successor will be able to use it because it expires in the year 2004. (Naturally, though, if the experiment works it surely will be repeated.)

The President already has power under the Impoundment Control Act to rescind budget authority *if he can get congressional approval*. **The Line Item Veto Act** [P.L. 104-130,

2 USCA 691 *et seq.* (1997)], **on the other hand, establishes a presumption in favor of restraint: The rescission goes into effect *unless Congress* dis*approves of it*.**

The new line item veto process begins when the President signs a bill. **Once signed, the President has five days to "revisit" a bill and cancel *in whole* any** [691] --

- **"dollar amount of discretionary budget authority"**

(an authorization to incur financial obligations for the Federal Government that is [1] specified in an appropriations law, [2] required by a specific provision of an appropriations law even if a specific dollar amount is not specified, [3] shown separately in any table, chart, or explanatory text in the relevant report on an appropriations law, or [4] made available for a specific program, project, or activity in certain other laws that are not appropriations laws [691e(7)]);

- **"item of new direct spending"**

(a provision of law that is estimated to increase budget authority or outlays for direct spending *relative to the most recent baseline* [691e(8)]; "direct spending" is defined as entitlement authority, the food stamp program, and budget authority provided by law (other than an appropriations law) [691e(5)]); or

- **"limited tax benefit"**

(any revenue-losing provision that provides a federal tax benefit to 100 or fewer beneficiaries, or transitional tax relief to 10 or fewer beneficiaries [691e(9)]. The Joint Committee on Taxation has a special responsibility to identify "limited tax benefits" in a bill, and if it does then the President is bound by the Committee's determination as to what constitutes such benefits [691f]).

The descriptions above are much abbreviated for two of the key terms. **The statutory definitions themselves must be referred to for precise definitions**.

President's Special Veto Message. President Clinton has not yet used his line item veto authority. When a President exercises that authority, he has five days (Sundays excluded) to send a special veto message to Congress [691]. That message must specify the dollar amounts involved, the reasons for the veto, its expected economic impact, and more [691a]. Vetoed items are canceled as soon as Congress receives the message [691b]. A veto message is sent to both the Senate and the House of Representatives and is referred to the Budget Committees and the relevant authorizing or appropriating committees.

Introduction of a Disapproval Bill in the Senate. To qualify for expedited consideration, a bill disapproving the President's veto must be introduced within five days of session after receiving the President's message [691d(c)]. Generally, that bill must then be acted on within 30 days of session [691d (b)]. The disapproval bill must refer exclusively to the reference numbers of the President's vetoes, but may contain any combination of his cancellations [see 691e(6)]. A disapproval bill is referred to the relevant committee which must report it within seven days of session but may amend it. If the committee fails to act, the bill is discharged automatically [691d(e)(1)]. (If a bill is received from the House, it goes on the Senate Calendar and is not referred to a committee [691d(e)(2)].)

Disapproval Bill on the Senate Floor. A motion to proceed to consideration of a disapproval bill is not debatable [691d(e)(5)]. Amendments are in order only if they strike a reference number of a cancellation or insert a reference number that is in the President's message but not the disapproval bill [691d(e)(4) (A)]. However, the rule limiting amendments may be waived by an affirmative vote of three-fifths of Senators [691d(e)(4)(B)]. Generally, Senate consideration of a disapproval bill is limited to no more than 10 hours, equally divided, but may be expanded to 15 hours [691d(e)(6)]. Debate on any amendment is limited to one hour [691d(e)(7)]. A motion to recommit is not in order [691d(e)(8)]. If the Senate is considering a message from the House on a disapproval bill, consideration is limited to four hours with debate on motions and amendments limited to 30 minutes, equally divided [691d(e)(10)]. Generally, the Senate will consider only one disapproval bill for each veto message [691d(e)(3)].

Disapproval Bill in Conference. If a disapproval bill is sent to a conference, the scope of the conference is limited: The conferees *must* include every cancellation where the two houses agreed but may *not* include any cancellation that neither house agreed to [691d(f)(4)]. In the Senate, consideration of a conference report is limited to no more than four hours, equally divided. A motion to recommit the conference report is not in order [691d(f)(3)].

Disapproval Bill Must be Signed. Once Congress has approved a conference report on a disapproval bill, it must be presented to the President. The President's vetoes/cancellations are not *disapproved* unless the bill becomes law, which it may do with the President's signature, after 10 days without his signature, or over his veto [U.S. Const., Art. I, 7].

Judicial Review. The Supreme Court held last month [in *Raines v. Byrd*] that individual Senators and Representatives could not challenge the constitutionality of the Line Item Veto Act because they lacked that *standing* that is required by Article III of the Constitution. There will be another challenge, however, and the Act itself provides for expedited judicial review [692].

[All references to a section () or paragraph () are to United States Code Annotated, Title 2 (1997).]